

From: Duncan Holley
To: Microsoft ATR
Date: 12/14/01 12:02pm
Subject: Microsoft Settlement

To whom it may concern,

I am writing this letter as a response to the "penalty" that Microsoft Corporation is to receive in the proposed settlement of their anti-trust violation case. As a professional in the IT industry, I come into contact with Microsoft products, and those of their competitors, every day, and I feel that through this experience, I am qualified to comment on the issue at hand.

Microsoft has already been found guilty in this case, and therefore, I will not discuss here the issue of their market place dominance, or the practices which brought the courts to this decision. However, I look at the proposed settlement and find myself asking several questions:

1) Why a settlement. Traditionally, are not settlements reserved for out of court decisions, reached before a defendant is found guilty of a crime? Why should a defendant have any right to influence his or her own sentence, after he or she has been found guilty? Seemingly, this is the duty of the judge or jury, and not of the defendant. In light of this, I propose that Microsoft have no further input into the outcome of this case, beyond that of this public forum, which they are as entitled as the rest of us to partake in.

2) If a settlement, why this one? While on the surface, the support for financially challenged children is a noble ideal, it simply does not address this issues that are brought up in this case, nor remotely punish Microsoft for their illegal activities. In a statement released earlier in the week, Microsoft reacted with venom to the idea that the nine states which still pursue the case against them were attempting to punish the company. Forgive me if I am incorrect here, but isn't that what we are supposed to do with those that break the law, punish them?

Below are the flaws I see in the current settlement, please review them at your liesure.

* Microsoft's competitors are in no way compensated for the damage the Micorsoft's abuse of monopoly powers has caused. While I understand the reality that each of these competitors would benefit only mildly from a financial perspective, isn't it up to those bodies to decide how the money should be spent, not Micorsoft? Additionally, the sheer volume of parties damaged by Microsoft's illegal activity is what would make each individual settlement so small. It seems to me that this implies Microsoft has hurt too many parties too be punished so lightly.

* Microsoft stands to Gain More Marketshare from this action. They will provide their equipment to school children, therefore increasing their marketshare. Even if they pay a small fee here, they will recoup it in the future, as these children will become accustomed to working with Microsoft equipment, and be more likely to use it in the future. This means that the settlement is a tool for Microsoft to Further Enhance It's Monopoly.

* If my understanding is correct, Microsoft stands to MAKE MONEY on the settlement. The production costs on a Windows CD are likely no more than a dollar each. If they are allowed to treat this penalty as a charitable donation, they will actually return more money in tax benefits than they spend in production costs.

In short, I hardly see how a settlement in which the Guilty party is not responsible to those it has injured, is given a tool to further perpetuate it's crime in the future, and even makes the perpetrator a few dollars on the side, is in any way a penalty for the great disregard Microsoft has shown for the law, the government, and the American consumer. The administration has set as a goal that this issue be finished in a final way, that it not reoccur, and we do not see Microsoft back in court every five years. The way to do this is to actually penalize them. By rewarding them, we are encouraging these individuals to not only continue to break the law, but to get it brought back to court. It seems to help their business. Remember, the last time they were found guilty of an anti-trust violation, they ignored the penalties put against them. It seems this time a more serious punishment is in order.

And if you simply must make them give one billion to the schools, just make it in cash, and say that no one is allowed to buy Microsoft software or hardware with that money. Apple, Sun, and Linux systems are all viable alternatives, and, as a member of the IT community, it is my experience that learning UNIX skills will make an individual at least as employable as learning Windows (Windows is so dominant in the home market, that those of us with UNIX skills are rare) and this will benefit those kids as well.

Sincerely,
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